

The REAL ID Act: State Implementation & Effects

The REAL ID Act was passed in 2005 as a rider to the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief.

The Act created a new set of federal standards for state identification cards (IDs) and driver's license authentication, issuance, and security protocols, referred to as Enhanced Driver's Licenses.

Citizens without a REAL ID-compliant driver's license or ID card will be prohibited from boarding a federally regulated airplane, accessing a federal facility, or entering nuclear power plants.

The REAL ID Act mandates that each state issue driver's licenses or state ID cards only to residents who can prove either U.S. citizenship or legal alien status by showing proper identification:

- A photo ID, or a non-photo ID that includes full legal name and birth date.
- Documentation of birth date.
- Documentation of legal status and Social Security number.
- Documentation showing name and principal residence address.

Digital images of each identity document are taken and stored for seven to 10 years, along with digital photos of the licensee.

Each state must maintain a database accessible to all motor vehicle departments nationwide and the federal government that contains at a minimum:

- All data fields printed on drivers' licenses and identification cards issued by the state.
- Motor vehicle drivers' histories including violations, suspensions, and points on licenses.

Each card must include, at a minimum, the person's full legal name and signature, date of birth, gender, driver's license or identification card number. It also must include a photograph of the person's face and the address of principal residence. Each card must also have physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

A similar effort, the Western Hemisphere Travel Initiative (WHTI), was passed by Congress and signed into law as part of the Intelligence Reform and Terrorism Prevention Act of 2004.

Starting June 1, 2009, travelers from Canada, Mexico, the Caribbean and Bermuda, who have historically been exempt from passport requirements, will be required to present a passport or Enhanced Driver's License (EDL) to enter the United States.

The main difference between the two is that a REAL ID requires proof of legal status in the U.S., while an EDL requires the applicant to be a U.S. citizen. Furthermore, while a REAL ID will not necessarily include radio-frequency identification (RFID) technology, an EDL will.

According to the Department of Homeland Security (DHS), states may align the REAL ID and EDL requirements into one all-inclusive card. **Arizona, Texas, Vermont** and **Washington** have reached an agreement with DHS to issue REAL ID and EDL-compliant cards. **California** and **Michigan** are working towards the same agreement.

According to a study conducted by the National Conference of State Legislatures, Real ID compliance will cost states more than \$11 billion to implement over five years and will have a major impact on services to the public. This includes adding databases and networks, providing supplies to produce the new documents, and educating and training employees.

On January 31, 2008, DHS published the REAL ID [Final Regulation](#) establishing minimum-security standards for state-issued drivers' licenses and identification cards and specifying how states are to come into compliance with the Act. The regulation was issued just 120 days before the May 11 deadline for states to either be in compliance or request an extension.

The hefty price tag combined with the near immediate compliance requirements caused a backlash from many states that claimed the May 11 deadline would be impossible to meet, so the DHS granted every state an extension until December 31, 2009 to comply.

However, receiving an extension does not mean the state intends to comply. Originally, states had to agree to comply with the Act before DHS would grant an extension, but when the deadline arrived and **Maine, Montana, and South Carolina** still refused to comply, DHS Secretary Michael Chertoff granted extensions on the basis that it would give states more time to consider the issue.

In addition, states that meet certain security and licensing benchmarks by May 11, 2009 will automatically be granted another extension that lasts until May 10, 2011.

The final regulation states, "Such additional extension request must be filed by October 11, 2009. DHS shall notify a state whether an additional extension has been granted within 45 days of receipt of the request and documents described above."

The security and licensing benchmarks, referred to as "material compliance," include, but are not limited to:

- Presentation of at least one of the required source documents.
- Verification of lawful status and Social Security numbers.
- Issuance of driver's licenses or identification cards that contain integrated Level 1 (overt), 2 (covert) and 3 (forensic) security features.
- Photographs of all applicants even if a license or identification card is not issued.

- Reasonable efforts to ensure that applicants do not have multiple licenses or multiple identities.
- Conduct fingerprint-based criminal history checks and employment eligibility checks for all employees involved in the licensing process.

Under the federal regulation, citizens born after December 1, 1964 are required to have a REAL ID by December 1, 2014. Everyone else is required to comply by December 1, 2017.

Residents of noncompliant states will be able to use a passport or a federal passport card instead of a REAL ID. The federal government has threatened that residents of noncompliant states will be turned away when trying to board airplanes or access federal buildings or military facilities but actually, the penalty will simply be additional screening. Federal officials have admitted there is an alternative known as “secondary security,” which involves a more detailed check of citizens without a REAL ID.

These threats have done little to convince states to comply.

Since 2007, at least 10 states have passed resolutions that urge Congress to amend or repeal REAL ID, or indicated their intent not to comply. At least 23 states have passed some sort of anti-Real ID legislation and 11 have successfully changed state law to reject Real ID requirements.

There are currently 26 bills pending in 18 states relating to REAL ID.

Note: All pending legislation is from the 2009 session. All bills from 2007 and 2008 are enacted.

STATE	IMPLEMENTATION STATUS/COMMENTS	LEGISLATION FOR IMPLEMENTATION	LEGISLATION AGAINST IMPLEMENTATION
Alabama	Alabama is a leader in the country as far as establishing and maintaining the security of our driver's licenses," says Maj. Roscoe Howell, chief of Alabama's Driver License Division. Citizens take computerized tests; their records are captured electronically; their digital photos are stored in a searchable database; and their names are automatically checked against national databases to confirm identity and ensure they are legally entitled to a license		HJR 130 (pending) would oppose further implementation of the Real ID Act and urges the state legislature to approve any implementation of the Act or other similar act. (No link available, click here for the Alabama website)
Alaska			SB 202 (2008) prohibits the spending of any state or federal funds towards the implementation of REAL ID.
Arizona	12/6/2007 – Arizona signed a Memorandum of Agreement with DHS to enhance the security of state driver's licenses to offer a WHTI-compliant document to U.S. citizen residents and to pledge future compliance with the requirements of REAL ID		HB 2426 (pending) would prohibit implementing an Enhanced Driver's License program as required by the WHTI. HB 2677(2007) prohibits participation in the REAL ID Act and requires state agencies to report any attempts by the federal government to secure implementation of the REAL ID Act. (No link available)
Arkansas	Arkansas has asked for a first extension but it is not committed to implementing Real ID.		
California	California is working with DHS to produce REAL ID-compliant Enhanced Driver's Licenses. In January 2008, California reiterated that it has no problems complying with Real ID; however, it did mention privacy and funding issues, which continue to be a concern	SB 60 (pending) would require the state DOT to issue driver's licenses that conform to the Real ID Act	
Colorado	Colorado expects to be on the road to implementing Real ID satisfactorily to get another extension in the future if necessary.		HJR 1047 (2008) opposes any portion of the Real ID Act that violates the rights and liberties guaranteed to citizens
Connecticut			HB 436 (pending) would prohibit the state Department of Motor Vehicles from adopting, amending,

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			administering or interpreting any of its regulations that would cause it to comply with Real ID
Delaware	Delaware anticipates spending up to \$6 million to get Real ID up and running, \$2 million a year to operate it, and another \$15 million would be required to build a new Department of Motor Vehicles office because the current one does not meet Real ID building security standards. About 34 more DMV employees -all trained to detect document fraud -would have to be hired		
District of Columbia	N/A	N/A	N/A
Florida	Florida already provides a secure and safe driver license and identification card, and are well postured to incorporate any changes that may be required by the REAL ID		
Georgia	The legislature has approved legislation authorizing the governor to reject Real ID if federal regulations do not “adequately safeguard and restrict use of the information in order to protect the privacy rights” of Georgia residents		SB 5 (2007) authorizes the Gov. to delay compliance with certain provisions of the REAL ID Act until DHS expressly guarantees through defined safeguards that the Act will not violate the economic privacy or biological sanctity of any citizen
Hawaii	“We are moving forward on reviewing the rules and coordinating with the county DMVs to see how the rules can be implemented and coordinated.” -Russell Pang, Chief of Media Relations for Gov. Linda Lingle. Hawaii is one of only six states that does not have a law requiring driver’s license applicants to show that they have a “legal presence” in the country	HB 134 (pending) would require people seeking driver's licenses to show proof that they are legally in the United States	SCR 31 (2007) opposes the implementation of the REAL ID Act and urges the congressional delegation to support any legislation that calls for the repeal, or at least proper funding, of the REAL ID Act
Idaho	Idaho has serious concerns and reservations about REAL ID and its future here is to be determined		HB 606 (2008) directs the Transportation Board and the Transportation Department not to implement any provision of the REAL ID
Illinois	Illinois does not have a law requiring driver’s license applicants to show that they have a “legal presence” in the	HB 3629 (pending) provides standards for the issuance of REAL ID compliant identification cards	HJR 27 (2007) opposes any portion of the Real ID Act that violates the rights and liberties guaranteed to citizens

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	country		
Indiana	Indiana intends to comply and over the past couple of years has enhanced their security system		
Iowa	Iowa will be implementing Real ID		
Kansas	N/A	N/A	N/A
Kentucky	<p>Kentucky is selected as one of two pilot states to receive federal Real ID grants. It is ahead of many states in preparing for Real ID because:</p> <ul style="list-style-type: none"> • It does not offer online licensing (states that do will likely have to stop to comply with Real ID's verification requirements). • Its searchable digital photo system already provides the fraud protections envisioned for Real ID. • Citizens already must go into motor-vehicle offices every four years to renew their licenses. • The state issues birth certificates centrally, so it will only need to interact with one agency to verify in-state birth information 		SJR 73 (pending) and HJR 133 (pending) would urge the state Transportation Director not to comply with the Real ID Act
Louisiana			HB 715 (2008) directs the Department of Public Safety and Corrections and the office of motor vehicles not to implement the REAL ID Act and to report any attempt by agencies or agents of DHS to secure the implementation of the REAL ID Act
Maine	There is currently no effort being undertaken to roll back the public law preventing the secretary from moving in the direction of Real ID		SP 113 (2007) states that the Maine State Legislature refuses to implement the REAL ID Act and implores Congress to repeal it
Maryland	Maryland does not have a law requiring driver's license applicants to show that they have a "legal presence" in the country	HB 659 (pending) would require the Motor Vehicle Administration to issue driver's licenses that comply with the Real ID Act	
Massachusetts	N/A	N/A	N/A
Michigan	On 10/13/2008, Michigan reached agreement with DHS to enhance the security features of the state's driver's license,	SR 21 (2007) urged DHS to develop a pilot program in Michigan for a dual purpose state driver's	HR 176 (2007) urges Congress to repeal the REAL ID Act and to support a return to a negotiated rulemaking process with the states

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	which may serve in the future as an acceptable alternative document for crossing the United States' land and sea borders. Enhanced Driver Licenses are scheduled to be available in the next few months	license/personal identification card to comply with the provisions of the Real ID Act and WHTI	
Minnesota		SF 345 (pending) would implement REAL ID-compliant Enhanced Driver's Licenses	Executive Order 08-08 (2008) prohibits the Commissioner of Public Safety from implementing the REAL ID Act unless implementation is authorized by the legislature
Mississippi	N/A	N/A	N/A
Missouri	State Rep. Jim Guest leads Legislators Against Real ID, a website committed to stopping the REAL ID Act		HB 361 (pending) prohibits the Department of Revenue from amending its procedures in order to comply with Real ID. Requires the Department of Revenue to verify an applicant for a driver's license is a lawful U.S. citizen
Montana	Gov. Brian Schweitzer has called on his colleagues in other states to join Montana in opposition to this "major threat to the privacy, constitutional rights, and pocketbooks of ordinary Montanans."	SB 154 (pending) would authorize the issuance of Enhanced Driver's Licenses	HB 287 (2007) prohibits the state from participating in the implementation of the REAL ID Act
Nebraska		LB 229 (pending) would require the state to comply with Real ID requirements	LR 28 opposes enactment or enforcement of REAL ID in the state and urges Congress to repeal it
Nevada	Nevada should be in line with the federal act and able to issue Real ID-compliant driver's licenses and ID cards in early 2010	SB 52 (pending) would revise existing law to bring the state in compliance with Real ID. AB 170 (pending) would require the Department of Motor Vehicles to maintain a database of all of driver's license applicant's thumbprints to confirm the identity of that person	
New Hampshire	New Hampshire enacted a law that prohibits the state from changing its driver's license and identification card laws to comply with Real ID and it does not appear that law is going to be repealed		HB 685 (2007) prohibits the Department of Safety from complying with the REAL ID Act
New Jersey	N/A	N/A	N/A
New Mexico	New Mexico does not have a law requiring driver's license applicants to show that they		

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	have a “legal presence” in the country		
New York	On 9/16/08, REAL ID-compliant Enhanced Driver’s Licenses were issued. Licensee must present social security card, four items that prove name, proof of date of birth, proof of U.S. citizenship, and two forms of proof of New York state residence		
North Carolina	North Carolina is on track to implement Real ID	HB 1473 (2008) required DOT to report the projected cost of REAL ID implementation	
North Dakota			SCR 4040 (2007) states that the Real ID Act will cost the state \$14,000,000, invite identity theft and the evasion of privacy, and be an inconvenience to residents. The resolution urges the Congress to repeal the Real ID Act
Ohio	Ohio was the first state to request and receive an extension and the state has no plans to oppose REAL ID	HB 67 (2007) directs the Director of Public Safety to request an extension of time to meet the requirements of the federal REAL ID Act	
Oklahoma		SB 1164 (engrossed) directs the Department of Public Safety to implement a driver’s license or identification card that is compliant with Real ID. (No bill link, click here for the Oklahoma website)	HB 2146 (pending) prohibits the Department of Public Safety from collecting any biometric data in order to get or renew a driver's license. SB 464 (2007) prohibits implementation of the REAL ID Act. (No bill link, click here for the Oklahoma website)
Oregon	Oregon already verifies people’s legal presence but is concerned with the privacy issues that would come from implementing REAL ID	SB 390 (pending) would require the Department of Human Services to verify each driver’s license applicant to determine if they reside in the United States lawfully	SB 536 (pending) prohibits any state agency from expending any funds to implement the Real ID Act unless the state DOT implements sufficient measures to protect individuals privacy, and put safeguards in place that protect against the unauthorized disclosure or use of an individual’s personal identifying information
Pennsylvania			HR 767 (2008) urges Congress to repeal the REAL ID
Rhode Island	Rhode Island supports REAL ID and has applied for grant money		
South Carolina	South Carolina is a non-participatory state for Real ID. The state is estimating the cost of implementation to report		SB 449 (2007) prohibits the state from implementing the REAL ID Act

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	back to the legislature		
South Dakota	South Dakota has not yet committed to Real ID		SCR 7 (2008) urges Congress to repeal REAL ID Act
Tennessee			HB 1426 and SB 1934 (pending) direct the Department of Safety not to implement the Real ID Act, and require the commissioner to report any attempt by the federal government to get the state to comply with the Act
Texas	10/01/08- REAL ID compliant driver's licenses and ID cards issued. The Texas Department of Public Safety is authorized to issue Enhanced Driver's Licenses but Gov. Rick Perry has expressed several reservations over the program, thereby delaying its implementation		
Utah	Utah does not have a law requiring driver's license applicants to show that they have a "legal presence" in the country		HB 325 (passed House) would prohibit the state and the Driver's License Division from implementing any provision of the REAL ID Act. HR 4 (enrolled) urges Congress not to penalize any state or its citizens for failure to comply with the REAL ID Act pending further Congressional consideration to repeal the Act. HR 2 (2007) urges Congress and DHS to suspend implementation of the REAL ID Act or repeal it
Vermont	On 2/17/09, REAL ID-compliant Enhanced Driver's Licenses were implemented. Licensees need proof of citizenship, a photo identity document, documentation showing date of birth, proof of social security number and documentation showing name and address of principal residence		
Virginia		SB 1046 (engrossed) would require driver's license applicants to establish proof of identity, legal presence, residency and social security number	HB 1587 and SB 1431 (engrossed) would prohibit the state from complying with "any provision of the REAL ID Act that it determines would compromise the economic privacy, biometric data or samples of any resident."
Washington	On 1/22/08 Washington became the first state to issue REAL ID-compliant Enhanced Driver's License and ID Cards. Licensees		SB 5087 (2007) prohibits the state from implementing the REAL ID Act unless the federal governments funds implementation and takes

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	must have proof of citizenship, residency, and identity, plus a social security number and acts as a passport alternative for re-entering the country at land and sea borders		reasonable measures to protect residents from unauthorized disclosure of data
Wisconsin	The Joint Committee on Finance voted to provide the DOT with only \$11.2 million of the \$19.9 million requested. It is unknown whether this amount will be sufficient to enable the DOT to become materially compliant with REAL ID by Dec. 31, 2009	SB 40 (2007) incorporates REAL ID requirements into the state law	
Wyoming		SF 38 (engrossed) would further state's "material compliance" required for DHS second extension. Would require background checks for state employees engaged in producing driver's licenses and state ID cards and would require fraudulent document recognition training for all employees who handle the background check documents or who issue driver's licenses and state ID cards	